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November 19, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Unbundled Access to Network Elements*, WC Docket No. 04-313; *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers;* WC Docket No. 01-338

Dear Ms. Dortch:

In response to questions from Commission staff, Covad writes herewith to provide additional information for the record on its provision of line shared DSL services.

Copper Loop Distance Limitations

The Commission's previous decision to phase out the line sharing UNE was premised in part on its belief that competitors would be able to provide a "triple play" of voice, video and data services over unbundled copper standalone loops. Specifically, in the *Triennial Review Order*, the Commission predicted that competitors' impairment in the absence of access to line shared loops would be alleviated by their ability to provide "a number of services" over unbundled standalone loops, "including voice, voice over xDSL (ie., VoDSL), data and video services."[1] The Commission concluded that the "increased operational and economic costs of a stand-alone loop (including costs associated with the development of marketing, billing and customer care infrastructure) are offset by the increased revenue opportunities afforded by the whole loop."[2] Since the time the Commission made this prediction, more than one year has passed. Yet, to this date, there has been miniscule deployment of video services by competitors using unbundled standalone loops. As the Commission's own data shows, even the incumbent LECs rarely if ever offer video services via copper loops.[3] As the Commission recently stated, "We previously reported that the largest incumbent LECs have largely exited the video business. This remains true today."[4] As the Commission further stated, "Some LECs have come full circle, however, and are marketing DBS service as they did in 1998,"[5] referring to the much-

[1] *See Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket Nos. 01-338, 96-98 and 98-147, FCC 03-36, para. 258 (rel. Aug. 21, 2003) ("*Triennial Review Order*").

[2] *Id.*

[3] *Tenth Video Competition Report,* 19 FCC Rcd. 1606, ¶ 115-6 (2004).

[4] *Id.* at para. 16.

[5] *Id.* at para. 115.

publicized efforts of Verizon, Qwest and BellSouth to bundle DirecTV satellite television services with their telephone service offerings, and SBC's similar efforts with Echostar's satellite television service.

It should be no surprise that so little deployment of television services over standalone copper loops has taken place since the Commission's *Triennial Review Order*. The Commission failed to adequately consider the technical limitations of standalone copper loops in the provision of video services. All copper-based data services have speed limitations based on distance, as the DSL Forum Reports:[6]

1.544 Mbps ~ 18,000 feet

2.048 Mbps ~ 16,000 feet

6.312 Mbps ~ 12,000 feet

8.448 Mbps ~ 9,000 feet

These distance limitations render all-copper loops in most instances non-viable as platforms for the delivery of "triple-play" voice, video and data services. It should come as no surprise, therefore, that for their own future triple-play architectures, the Bell companies have recently announced extensive plans to deploy fiber in their loop plant network – in part to overcome these distance limitations of copper. For example, SBC's Project Lightspeed plans for television, data and voice services to be delivered over Fiber-to-the-Premises (FTTP) and Fiber-to-the-Node (FTTN) technologies, rather than standalone copper loops.[7] Unlike copper loops, which as detailed above remain constrained to approximately 9 Mbps under the best loop conditions, SBC's FTTx architecture will enable it to reach speeds of "20 to 25 megabits downstream, sufficient to simultaneously deliver four streams of TV programming, including HDTV and Internet access."[8] Similarly, Verizon has announced plans to use FTTP to provide its own triple-play of voice, video and data.[9] According to Verizon, its FTTP architecture will enable it to offer "data speeds of up to 30 megabits-per-second," utilizing "fiber-optic connections - instead of copper wire - directly into homes and businesses to enable a broad array of voice, data and

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[6] *See* "General Introduction to Copper Access Technologies," available at http://www.dslforum.org/aboutdsl/general_tutorial.html.

[7] *See* "SBC Communications to Detail Plans for new IP-Based Advanced Television, Data and Voice Network," News Release, Nov. 11, 2004, available at http://www.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21458.

[8] *Id.*

[9] *See* "Verizon Poised to Deliver First Set of Services to Customers Over Its Fiber-to-the-Premises Network," News Release, July 19, 2004, available at http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=86053.

video applications."[10] As made clear by the Bell companies' own deployment plans announced since the *Triennial Review Order*, it is fiber, not standalone copper, that is the medium of choice for a triple play of voice, video and data.

Second Line ADSL Provisioning Costs

Covad also writes to provide additional detail on its costs for provisioning broadband services over standalone copper loops. As Covad has previously argued, and as the Commission itself has previously acknowledged, the high costs of provisioning broadband services over standalone copper loops renders them non-viable as a strategy for providing broadband-only services to consumers:

> The record shows that the combined collocation and unbundled loop costs, exclusive of incremental and fixed network, equipment, and overhead costs, incurred by a competitive LEC seeking to deploy xDSL service can exceed 100% of the retail price for the comparable shared-line xDSL that the incumbent offers to the same customer that the competitor is vying for.[11]

The costs to Covad of providing second-line ADSL service consist of both the recurring costs of purchasing access to a second copper loop to provide service, as well as the initial non-recurring costs of having a second loop provisioned to the customer premises. Meanwhile, the incumbent LECs themselves provide mass market ADSL services using line sharing configurations, avoiding these expenses. Relying on second loops to provide mass market ADSL services thus places competitors at a distinct, permanent and discriminatory cost-disadvantage to the incumbent LECs in the provision of mass market broadband services, as the Commission itself previously found.[12]

Covad would continue to face these cost disadvantages if it were to attempt providing standalone broadband services in the mass market over second line loops. Nationwide, Covad's average recurring monthly cost for a standalone loop is more than 12 times its average recurring monthly cost for a line shared loop. The picture is even worse when non-recurring initial costs for provisioning a second line loop are considered. Nationwide, Covad's average non-recurring cost for provisioning a second line loop are more than 3 and half times its non-recurring costs for provisioning a line shared loop. In particular, these costs include the costs of performing multiple truck rolls: by the ILEC to actually connect a second line to the customer premises, and

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[10] *Id.*

[11] *See Line Sharing Order*, 14 FCC Rcd 20912, FCC 99-355,at para. 40 (1999).

[12] *See id.* ("This price discrepancy between what an incumbent can charge its customer for its own shared-line xDSL and what a competitor must pay to the incumbent just to gain access to that customer materially diminishes the ability of the competitive carrier to offer voice-compatible xDSL-based services in competition with incumbent LEC.")

by Covad to verify that the line works and then install service on this newly connected line. Nationwide, Covad's costs for performing its own truck rolls on average currently exceed $100 per installation, costs which the ILEC does not bear because it is using a line shared service for its own mass market broadband service offering.

Bundled Voice and Data Opportunities in the Consumer Market

Contrary to Bell company assertions,[13] the *potential* for competition from bundles of VoIP and broadband in the consumer market is hardly a present-day alternative to line sharing. Covad does not currently offer a VoIP product for consumers. Rather, Covad has merely announced that it is developing plans for such a product, in part waiting to see what the Commission's new permanent UNE rules for consumer voice competition will be. At present, Covad only markets VoIP services in the enterprise market over T1 facilities.[14] Covad's current VoIP products are intended to replace enterprise PBXs, not residential telephones; they are intended "for businesses that utilize both telephone services with *more than 15 employees* and Internet access services."[15]

Furthermore, the dedicated-loop ADSL products over which such a VoIP and data bundle would be offered have only just now begun appearing in the *consumer* marketplace. Although the Bell companies point to the existence of such products marketed to business customers as an alternative to line sharing,[16] the fact remains that the availability of dedicated loop ADSL *in the consumer market* has only just begun. Only two of the Bell companies began offering such products this year.[17] Similarly, Covad only began offering such service in July of this year.[18] Given that these underlying broadband data products are so new to the consumer marketplace, it can hardly be predicted that they will assuredly replace the need for line sharing.

Furthermore, Covad fully expects that over time standalone broadband services in the mass market – like line sharing – will be replaced by greater consumer uptake of competitors' bundles of broadband services and voice. The salient point, however, is that these competitive bundles have not yet been adopted in appreciable numbers. Until they are, line sharing will

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[13] *See, e.g.,* SBC Reply Comments at 93-95.

[14] *See* "Covad VoIP Services," http://covad.com/voip/services.shtml.

[15] *Id.*

[16] *See, e.g.,* Verizon Reply Comments at 173-74.

[17] *See* "Verizon to Offer Naked DSL," CNET News, May 26, 2004 (available at http://news.com.com/Verizon+to+offer+naked+DSL/2100-1034_3-5221095.html); "Qwest First Major Telecom Company To Offer Stand-Alone DSL Service," News Release, Feb. 25, 2004 (available at http://www.qwest.com/about/media/pressroom/1,1281,1454_archive,00.html).

[18] *See* "Covad Launches Dedicated-Loop ADSL for Consumers and Small Businesses Nationwide," News Relase, July 6, 2004 (available at http://covad.com/companyinfo/pressroom/pr_2004/070604_news.shtml).

remain critical as the primary means of providing a third platform into the home to compete with the ILEC-cable duopoly.

To the extent the Commission remains concerned that the potential *future* deployment of competitive VoIP and data bundles will remove the continued need for line sharing, the Commission's existing authority to periodically review its own rules – for example, in the rulemaking process or in the biennial review process – allows it the opportunity to revisit its line sharing rules to address future competitive conditions. Indeed, the Commission itself invoked the availability of the biennial review process as a means of revisiting its grandfathering of existing line sharing customers according to future competitive conditions, if necessary.[19] Thus, the Commission's existing authority to periodically review its rules should alleviate any concerns that the potential future deployment of VoIP and data bundles will provide an alternative to line sharing.

Respectfully submitted,

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[19] *See Triennial Review Order* at para. 264.